IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 31/2007

JAGDISH @ DINESH & ANR. Vs. STATE OF RAJASTHAN

Date of order: 06.02.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Sanjay Kr. Sharma for the accused-petitioners.
Mr. Ashwani Kumar Sharma, P.P. for the State.

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The instant criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the judgment dated 25.11.2005 passed by the Special Judge, SC/ST (Prevention of Atrocities Cases), Jhalawar, whereby the appeal filed by the accused-petitioners has been dismissed on the ground of limitation and the judgment dated 27.05.2005 passed by the Chief Judicial Magistrate, Jhalawar in Criminal Case No. 675/2003 has been confirmed by which the accused-petitioners have been convicted and sentenced as under:-

Under Section 420 IPC	Rigorous imprisonment for 4 years and a fine of Rs. 5,000/-, in default of payment of fine to further undergo imprisonment for six months.
Under section 406 IPC	Rigorous imprisonment for 3 years and a fine of Rs. 2,000/-, in default of payment of fine to further undergo imprisonment for two months.

Both the sentences were ordered to run concurrently.

I have heard rival submissions of the respective parties and have also gone through the impugned judgment dated 25.11.2005.

It is not disputed that the Appellate Court has not examined the case on merits and has dismissed the appeal of the accused-petitioners only on the ground of limitation. This revision petition has also been filed by the petitioners after a delay of 310 days and for this delay, the petitioners have not given reasonable explanation. Even otherwise in the considered view of the Hon'ble Supreme Court and this Court, in the interest of justice, I deem it proper to condone the delay of 310 days in filing the present revision petition.

Having considered the revision petition on merit and upon careful perusal of the impugned judgment, I deem it proper to quash and set-aside the impugned judgment dated 25.11.2005 passed by the Appellate Court and remand the matter back to the Appellate Court with a direction to decide the appeal on merit.

With these observations, the revision petition stands disposed of.

The application under Section 5 of the Limitation Act also stands disposed of.

(K.S. RATHORE),J.

/KKC/